IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WA.No. 1342 of 2007()

AGAINST THE JUDGEMENT IN WPC.15981/2007 Dated 30/05/2007
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APPELLANT: PETITIONER:

NARENDRA DEV R.,
AGED 20 YEARS, S/O.DR.REGHUKUMAR,
2005 BATCH M.B.B.S. STUDENT,
A.C.M.E. PARIYARAM, P.O.PARIYARAM,
KANNUR DISTRICT.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS: RESPONDENTS
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1. THE KANNUR UNIVERSITY REPRESENTED BY ITS
REGISTRAR, MANGATTUPARAMBA P.O.,
UNIVERSITY CAMPUS, KANNUR DISTRICT.

2. THE CONTROLLER OF EXAMINATIONS,
KANNUR UNIVERSITY, MANGATTUPARAMBA P.O.,
UNIVERSITY CAMPUS, KANNUR DISTRICT.

3. THE PRINCIPAL,
THE ACADEMY OF MEDICAL SCIENCES (ACME),
PARIYARAM MEDICAL COLLEGE P.O.,
PARIYARAM, KANNUR DISTRICT.

R1 & 2 BY ADV. SRI.M.SASEENDRAN,SC,KANNUR UNIVERSITY
R3 BY SC SRI V.G.ARUN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A.No. 1342 of 2007

Dated, this the 11th day of June, 2007

JUDGMENT

H.L. DATTU, CJ.

This appeal arises out of an order passed by a learned Single Judge of this Court in W.P.(C) No.15981/2007 dt. 30.5.2007.

2. The appellant before us in this appeal was the petitioner in the writ petition. He is a student prosecuting his MBBS Course. He has failed in the first year in two subjects. He had filed the writ petition inter alia seeking a direction to the respondent University to permit him to attend the second year MBBS course provisionally, subject to revaluation of the papers.

3. The learned Single Judge has rejected the writ petition by his order dated 30.5.2007. It is the correctness or otherwise of the said order which is the subject matter of this writ appeal.

4. The admitted facts are:

Petitioner is prosecuting his MBBS Course. He is a student of the 3rd respondent College. He has failed in Anatomy and Physiology subjects. He has applied for revaluation of those papers. The results of such revaluation are not yet announced. In the meanwhile he wants to attend the second year MBBS course. Since the respondents had not permitted him to attend the second year MBBS classes, he was before this court for the relief indicated by us earlier.

5. Neither the University Regulations nor the MCI Regulations does permit a student to attend classes of the second year MBBS course in

case he has failed in the first year MBBS course and has applied for revaluation of the papers. In the absence of such regulations, this Court, in exercise of its extraordinary jurisdiction, should not direct the University to permit a student who has failed in the first year course to attend the classes in the second year MBBS course subject to either passing the first year course or till the results of the revaluation of the papers is announced. If it is done, then this court would be re-writing the regulations of the MCI as well as the University Regulations. This is not expected from this court.

6. The learned counsel appearing for the appellant would submit that a learned Single Judge of this court in W.P.(C) No.3787/2007 dated 5.2.2007, had permitted a student to attend the second year MBBS course subject to the result of the revaluation. It is his contention before us that another learned Single Judge of this court should have followed the orders passed by the other learned Single Judge in the other writ petition. In support of that contention the learned counsel has brought to our notice the observations made by the Apex Court in the case of ***Bir Bajrang Kumar v. State of Bihar and others - AIR 1987 SC 1345*** and also the observations made by the Apex Court in the case of ***Dr. Vijay Laxmi Sadho v. Jagdish - (2001) 2 SCC 247.***

7. In the instant case we do not know whether the petitioner, at the time of hearing of the petition, had brought to the notice of the learned Judge the orders passed by the other court in W.P.(C) No.3787/2007. If, for any reason, the same had been brought to his notice, the learned Judge either would have agreed with the reasoning and the conclusions reached by the other learned Judge or if, for any reason, he was not willing

to accept the views expressed by the other learned Judge, he would have referred the matter to a Division Bench as has been observed in the aforesaid two decisions of the Apex Court. We have also perused the orders passed by the learned Judge in the writ petition. In that order nowhere it is stated that a reference is made by the learned counsel for the petitioner about the orders passed by another learned Judge. In that view of the matter we cannot find fault with the order passed by the learned Singe Judge.

8. In our opinion, in matters of this nature, in the absence of specific rules or regulations permitting a student to prosecute his studies in the next semester or the next course if he has failed in a subject or subjects and has applied for revaluation, no orders need be passed by this court. This court definitely should not use its extra ordinary jurisdiction to bring down the academic interest of the student and also the academic standards of the University.

9. In that view of the matter we do not find any error in the orders passed by the learned Single Judge which does not call for interference. Accordingly this writ appeal is rejected. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/DK.